REMARKS

Claim Rejections – 35 U.S.C. § 102 Over Balasayee

Claims 1-20 stand rejected under 35 U.S.C § 102(b) as being anticipated by Balasayee, *et al.*, (*Workload Management: SP and Other RS/6000 Servers, March 2000, International Technical Support Organization, IBM Corporation, First Edition*). To anticipate claims 1-20 under 35 U.S.C. § 102(b), two basic requirements must be met. The first requirement of anticipation is that Balasayee must disclose each and every element and limitation as set forth in the Applicants' claims. The second requirement of anticipation is that Balasayee must enable Applicants' claims. Balasayee does not meet either requirement and therefore does not anticipate Applicants' claims.

Balasayee Does Not Disclose Each and Every Element
Of The Claims Of The Present Application

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Independent claim 1 of the present application recites:

1.   A method for assigning computational processes in a computer
      system to workload management classes, the method comprising:

      installing on the computer system an executable file from a
      software installation package, wherein the software installation
      package includes a specification of workload management
      properties for the executable file, including a definition of a
      workload management class;

      execute a process in dependence upon the executable file; and

2

assigning the process to the workload management class.

As explained in more detail below, Balasayee does not disclose each and every element of claim 1, and Balasayee therefore cannot be said to anticipate the claims of the present application within the meaning of 35 U.S.C. § 102(b).

Balasayee Does Not Disclose Installing On The Computer System An Executable File From A Software Installation Package

The Office Action takes the position that Balasayee at Sec. 2.3.2 – AIX Workload Manager architecture, paragraphs 3 - 6, discloses the first element of claim 1: installing on the computer system an executable file from a software installation package, wherein the software installation package includes a specification of workload management properties for the executable file, including a definition of a workload management class. Applicants respectfully note in response, however, that what Balasayee at Sec. 2.3.2 – AIX Workload Manager architecture, paragraphs 3 - 6, in fact discloses is:

> WLM introduces the concept of class to AIX.
>
> A class is a collection of processes. WLM monitors the CPU and physical memory utilization for all the classes of jobs and regulates their resource consumption using minimum, maximum and target values set for each class by the system administrator.
>
> WLM automatically assigns every process to a class using a set of assignment rules given by the system administrator. This class assignment is done based on the value of three attributes of the process: User ID, group ID, and the pathname of the application file it executes. When a process is started, it is assigned a class by WLM by comparing the values of those three attributes to the values given in the assignment rules file.
>
> Classes can be given a relative importance using an attribute of the class called the tier number (zero to nine). A class with a lower tier number will be considered more important and thus, will have resources applied preferentially to a less critical class with a higher tier number.

3

That is, Balasayee at Sec. 2.3.2, paragraphs 3 - 6, discloses a Workload Manager ('WLM') that assigns every process to a job class using a set of assignment rules provided by the system administrator. Balasayee's WLM monitors the CPU and physical memory utilization for all the job classes and regulates the resource consumption by the processes assigned to each job class using minimum, maximum and target values set for each class by the system administrator. Balasayee's WLM that assigns every process to a job class using a set of assignment rules provided by the system administrator, however, does not disclose installing on the computer system an executable file from a software installation package, wherein the software installation package includes a specification of workload management properties for the executable file, including a definition of a workload management class as claimed in the present application. Balasayee's WLM assigns a process to a particular job class using a set of assignment rules given by the *system administrator*—not based on workload management properties specified by a *software installation package* as claimed in the present application. Because Balasayee does not disclose each and every element and limitation of Applicants' claims, Balasayee does not anticipate Applicants' claims, and the rejections under 35 U.S.C. § 102(b) should be withdrawn.

Moreover, there is an additional reason that Balasayee's WLM does not disclose installing on the computer system an executable file from a software installation package as claimed in the present application: Balasayee at the cited reference point does not disclose workload management properties that include a definition of a workload management class. As claimed in the present application, the workload management properties specified by the software installation package for an executable file include a definition of a workload management class. Balasayee's WLM sets workload management properties for a process by assigning that process to a job class, which establishes minimum, maximum, and target values for process resource consumption. Balasayee at the cited reference point, however, does not disclose that Balasayee's job classes include definitions for additional classes such as the workload management class claimed in the present application. As such, Balasayee does not disclose workload management properties that include a definition of a workload management class.

Because Balasayee does not disclose each and every element and limitation of Applicants' claims, Balasayee does not anticipate Applicants' claims, and the rejections under 35 U.S.C. § 102(b) should be withdrawn.

Balasayee Does Not Enable Each and Every Element Of The Claims Of The Present Application

Not only must Balasayee disclose each and every element of the claims of the present application within the meaning of *Verdegaal* in order to anticipate Applicants' claims, but also Balasayee must be an enabling disclosure of each and every element of the claims of the present application within the meaning of *In re Hoeksema*. In *Hoeksema*, the claims were rejected because an earlier patent disclosed a structural similarity to the Appellant's chemical compound. The court in Hoeksema stated: "We think it is sound law, consistent with the public policy underlying our patent law, that before any publication can amount to a statutory bar to the grant of a patent, its disclosure must be such that a skilled artisan could take its teachings in combination with his own knowledge of the particular art and be in possession of the invention." *In re Hoeksema*, 399 F.2d 269, 273, 158 USPQ 596, 600 (CCPA 1968). The meaning of *Hoeksema* for the present case is that unless Balasayee places Applicants' claims in the possession of a person of ordinary skill in the art, Balasayee is legally insufficient to anticipate Applicants' claims under 35 U.S.C. § 102. As explained above, Balasayee does not disclose each and every element and limitation of independent claim 1 of the present application. Because Balasayee does not disclose each and every element and limitation of the independent claims, Balasayee cannot possibly place the elements and limitations of independent claim 1 in the possession of a person of ordinary skill in the art. Balasayee cannot, therefore, anticipate claim 1 of the present application.

Relations Among Claims

Independent claims 9 and 15 are system and computer program product claims, respectively, for assigning computational processes in a computer system to workload management classes corresponding to independent method claim 1 that include "means

for" and "means, recorded on [a] recording medium, for" assigning computational processes in a computer system to workload management classes. Claim 1 is allowable for the reasons set forth above. Claims 9 and 15 are allowable for the same reasons that claim 1 is allowable. The rejections of claims 9 and 15 therefore should be withdrawn, and claims 9 and 15 should be allowed.

Claims 2-8, 10-14, and 16-20 depend respectively from independent claims 1, 9, and 15. Each dependent claim includes all of the limitations of the independent claim from which it depends. Because Balasayee does not disclose or enable each and every element of the independent claims, Balasayee does not disclose or enable each and every element of the dependent claims of the present application. As such, the rejections of claims 2-8, 10-14, and 16-20 should also be withdrawn, and the claims should be allowed.

Conclusion

Claims 1-20 stand rejected under 35 U.S.C. § 102 as being anticipated by Balasayee. For the reasons set forth above, Balasayee does not disclose each and every element of Applicants' claims and does not enable Applicants' claims. Balasayee therefore does not anticipate Applicants' claims. Claims 1-20 are therefore patentable and should be allowed. Applicants respectfully request reconsideration of claims 1-20.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

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